



TAX BRIEFING



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TAX BRIEFING FOR ROMANIA: FEBRUARY 2010

- **Circular no. 4 of February 1, 2010 on the reference interest rate of the National Bank of Romania (NBR) for February 2010.** Given the provisions of Law no. 312/2004 on the Statute of the NBR and the recent macroeconomic and monetary developments, NBR set the February 2010 benchmark interest rate at 7.50% per year.

(Official Gazette No. 73, of February 1, 2010)

- **Order no. 1430/2010 for the amendment of Order no. 101/2008 on the approval of the model and content of forms used for declaring duties, taxes and contributions established by self-taxation or withholding.** The Order applies starting with the declaration of payment obligations for the fiscal year 2010. The following forms of Order no. 101/2008 will be amended:

1. Annex 1 – Declaration on payment obligations to the state budget.
2. Annex 8 – Instructions for completion of Form 100 – Declaration on payment obligations to the state budget.
3. Annex 15 – Classification of liabilities to the state budget.
4. Annex 17 – Classification of duties, the text from “Name of the tax debt” is replaced on position 12 with “Excise duties on unleaded petrol and bioethanol” and on position 13 with “Excise duties on diesel and biodiesel”.

(Official Gazette No. 83, of February 8, 2010)

- **Government Emergency Ordinance (GEO) no. 4 regarding the regulation of some social protection measures for 2010.** According to the GEO, the employees having their labour contracts suspended from employer’s initiative are exempted from the payment of social security contributions, in case of temporary suspension of company’s activity according to the Labour Code, and they benefit of an indemnity of minimum 75% from the basic salary. Also, the employers are exempted from payment of social security contributions for those respective employees.

The provisions of GEO are applicable starting with February 2010, until December 31 2010. The indemnities, of which the employees benefit, paid from the salaries fund during temporary interruption of employer’s activity, are not included in salary incomes and are not taxable for a maximum period of 90 days.

(Official Gazette No. 93, of February 10, 2010)

- **Order no. 47 of January 21, 2010 concerning the entry into force of international treaties.** The following treaties came into force for Romania:

- July 1, 2009 – The Convention for establishing the European Radiocommunications Office (ERO), concluded in Hague on June 23, 1993 and amended in Copenhagen on April 9, 2002, ratified by Law no. 482/2003, published in the Official Gazette of Romania, No. 865 of December 5, 2003.



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- August 1, 2009 – The Optional Protocol, adopted in New York on December 18, 2002, at the Convention against torture and other punishments or cruel treatments, inhuman or degrading, adopted in New York on December 10, 2002, ratified by Law No. 109/2009, published in the Official Gazette of Romania, No. 300 of May 7, 2009.
- September 15, 2009 – The International Convention of 2001 on Civil Liability for damages caused by oil pollution from consumption by maritime ships (BUNKERS), adopted in London on March 23, 2001, to which Romania acceded by Law no. 108/2009, published in the Official Gazette of Romania, No. 284 of April 30, 2009.
- October 8, 2009 - The Protocol on the Register of emitted and transferred pollutants, adopted in Kiev on May 21, 2003 and signed by Romania in Kiev on May 21, 2003, at the Convention on Access to Information, Public Participation in Decision and Access to Justice in Environmental Matters, signed in Aarhus on June 25, 1998, ratified by Law no. 112/2009, published in the Official Gazette of Romania, No. 339 of May 21, 2009, entered into force for Romania
- October 10, 2010 - The European Code of Social Security of the Council of Europe, adopted in Strasbourg on April 16, 1964, ratified by Law no. 116/2009, published in the Official Gazette of Romania, No. 331 of May 19, 2009, shall come into force in Romania
- October 15, 2009 - The Convention no. 102/1952 of the International Labour Organization on minimum social security standards adopted at Geneva on June 28, 1952 in the General Conference of the International Labour Organization, ratified by Law no. 115/2009, published in the Official Gazette of Romania, No. 325 of May 15, 2009, entered into force in Romania
- November 1, 2009 - Additional Protocol, adopted in Strasbourg on January 28, 2003, at the Council of Europe Convention on Cybercrime, concerning the criminalization of acts of racism and xenophobic nature committed through computer systems, ratified by Law no. 105/2009, published in the Official Gazette of Romania, No. 278 of April 28, 2009.

(Official Gazette No. 100, of February 15, 2010)

- Order no. 200 of February 9, 2010 of the Ministry of Public Finance on the inflation index used to update advance payments into annual income tax account. For the fiscal year 2010, the inflation index used for updating advance payments into annual income tax account is 3.5%.

(Official Gazette No. 101, of February 15, 2010)

- CIRCULAR no. 6 of February 9, 2010 on the penalty interest rate for deficits of local currency of minimum reserves' requirements starting with the application period 24th February – 23rd March 2010. The Board of Administration of the National Bank of Romania decided that starting with the application period 24th February – 23rd March 2010, the penalty rate for deficits of minimum reserves requirements in local currency is 16.50%

(Official Gazette No. 103, of February 15, 2010)

- Circular no. 7 of February 9, 2010 on the interest rates paid on minimum reserves requirements set up in RON and in U.S. Dollars starting with the

application period 24th January – 23rd February 2010. The Board of Administration of the National Bank of Romania decided that starting with the application period 24th January – 23rd February 2010, the interest rate paid on minimum required reserves in lei is 2.89% per annum and the interest rate paid on minimum reserves requirements in U.S. Dollars is 1.19% per annum.

(Official Gazette No. 103, of February 15, 2010)

- Decision no. 8 of February 17, 2010 approving the Certification norms of annual tax returns of corporate taxpayers, except those for which audit is mandatory. The Board of the Chamber of Tax Advisors approved the Certification norms of annual tax returns of corporate taxpayers, except those that require audit. The rule mentioned applies for certification of annual tax returns for 2009 that will be submitted in the fiscal year 2010.

(Official Gazette No. 111, of February 18, 2010)

Nevertheless, the Ministry of Finance has published on its website a project of Amendments of the Fiscal Procedure Code stipulating that certification of Tax return is proposed to be obligatory only for middle and large tax payers.

- Order no. 263 of February 22, 2010 on the approval of the Procedure of settlement of VAT returns with VAT to be refunded from the State budget.

The Order applies for VAT returns starting with February 2010. The Order describes the procedure applied by the National Tax Authority in the process of analysing, checking and approving the requests of reimbursement of VAT submitted by the VAT payers.

The recoverable balance VAT (defined as "negative VAT balance") will be refunded by the tax authorities, based on the option expressed by the taxpayer in the VAT return. The option can be exercised only for a negative VAT balance exceeding RON 5,000.

The VAT refund without a previous tax audit is allowed for maximum amount of RON 10,000 for each VAT return with option of reimbursement if the payer is fully complying with the payment of the taxes to the state budget.

For the VAT refund requests higher than RON 10,000, the tax authority performs calculation of the fiscal risk assigned to each tax payer. Based upon this risk, the VAT will be refunded by the tax authorities after checking a specific documentation prepared by the tax payer or further to a tax audit performed at the premises of the tax payer.

(Official Gazette No. 131, of February 26, 2010)

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